Before the
Federal Communications Commission
Washington, D.C. 20554

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OFFICE OF THE SECRETARY

In the Matter of	)	
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1998 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996.	))))	MM Docket No. 98-35

COMMENTS OF THE CHRONICLE PUBLISHING COMPANY SUPPORTING REPEAL OF THE NEWSPAPER/ TELEVISION CROSS-OWNERSHIP RULE

July 21, 1998

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I. INTRODUCTION AND SUMMARY

The Chronicle Publishing Company (the "Chronicle Company") offers these comments in response to the Commission's Notice of Inquiry in the above-captioned proceeding released March 13, 1998 (the "Notice") on the continuing viability of its broadcast ownership rules. As the licensee of KRON-TV ("KRON"), San Francisco, and the owner of the *San Francisco Chronicle* (the "Chronicle"), the Chronicle Company urges repeal of the newspaper-television cross-ownership restriction (the "newspaper rule").[1]

The Chronicle Company

The Chronicle Company is a family-owned enterprise that has been in the San Francisco newspaper business since 1865 and has concentrated its focus in the San Francisco area.[2] It started KRON in 1949 and was permitted to retain both KRON and the Chronicle when the newspaper rule was adopted in 1975 because there were no grounds for finding that common

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[1] 47 C.F.R. 73.3555(d). This rule provides that no radio or television broadcast license shall be granted to any party that owns, operates or controls a daily newspaper in the same market as the desired radio or television station.

ownership of a newspaper and television station in the San Francisco market was either anti-competitive or inimical to diversity.

The Chronicle Company has gone on to create a comprehensive local news and information website called The SFGate (the "Gate"; www.sfgate.com) that is among the most visited sites in the San Francisco Bay Area. We have also created a 24-hour local news and information cable channel called BayTV that provides live and in-depth reporting on Bay Area events that is unmatched by any other medium. Both BayTV and the Gate are risky, expensive projects that so far have provided substantial public benefits even as they have lost money. It is extremely unlikely that any single television station, newspaper or even joint venture between newspaper and station would have taken the risks or could have supplied the content base to execute these projects. The Chronicle Company, owning both a local newspaper and television station and drawing on the experience of its seasoned local print and television newsgathering staffs, was unusually able and eager to venture forth with these new local media enterprises.[3]

The Necessity of Repealing the Newspaper Rule

On the basis of our experience in developing local content, and our observations of the changes in our markets, the Chronicle Company strongly believes that the newspaper rule has long outlived whatever utility it might have had and will increasingly constrain the ability of

[2] The Chronicle Company also owns the *Pantagraph* in Bloomington, IL and the *Telegram and Gazette* in Worcester, MA. It is also the licensee of television stations in Omaha, Nebraska (WOWT-TV), Wichita, Kansas (KAKE-TV), Colby, Kansas (KLBY(TV)), and Garden City, Kansas, (KUPK(TV)), each of which provides extensive news coverage and public service to its local community.

[3] We take seriously the responsibility that comes with ownership of local media properties. Each of our outlets attempts to give the community a voice with respect to our coverage of the issues and the issues themselves. The Chronicle, of course, has its Op-Ed and Letters to the Editor pages. KRON has provided a comparable forum with weekly segments called "4 Listens," which air consumer comments and follow-up reports. KRON also has attended weekly meetings with community groups about programming issues and community affairs. Much of the BayTV programming features viewer call-in segments and unique live coverage of local community events like mayoral debates and controversial University of California meetings on affirmative action admissions policies. The Gate has at its very core community

local media companies fully to serve their communities. These comments, including the attached declarations by Chronicle Company managers, demonstrate how common ownership of a newspaper and television station in the same market can enhance the public good and spur the development of new media. Specifically, they demonstrate how the Chronicle Company's San Francisco media properties are in fact better because of joint ownership and how they support the development of risky and expensive new media ventures of the very kind that the Commission should be encouraging. The Chronicle Company's experience is an early but significant example of what can be done with new media by existing local media combinations, even as San Francisco is the bellwether of new media growth in the United States. We believe that the Commission is obligated to seek specific data in a notice and comment rulemaking proceeding on elimination of the newspaper rule. If, as it must, the Commission seeks to encourage the development of internet-based, local media and new local cable and digital services, we urge it to initiate a proceeding that will result in elimination of the newspaper rule.

The question usually applied to the newspaper rule is whether it is necessary to prevent anti-competitive practices or an undue concentration of media voices in a community. The Petition for Rulemaking of the Newspaper Association of America (the "NAA Petition") addresses this question forcefully.[4] NAA provides convincing evidence that the newspaper rule was not needed in 1975 when it was adopted and is certainly not needed now that the degree of competition and the number of voices in local media markets has exploded – a consideration that has guided the Commission's consideration of broadcast ownership rules in every other context. Although the next section explores this argument briefly, these comments focus on another

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conferencing and local input.

[4] In the Matter of Amendment of Section 73.3555 of the Commission's Rules to Eliminate Restrictions on Newspaper/Broadcast Station Cross-Ownership, Newspaper Association of America Petition For

question: what the public is going to lose by virtue of an unnecessary and outdated rule that prevents newspaper owners and broadcasters from realizing the benefits of common ownership in the same locale.

Broadcasters and newspaper owners, each with strong ties to the community, are uniquely placed to promote localism through existing and new media ventures. We believe that a strong case can be made that a return to localism – in the form of news, political programming, live event coverage, local services, and arts and entertainment, among others -- is the next great frontier in the media.[5] Notwithstanding the proliferation of cable channels, broadcast outlets, internet sites, and radio stations, local interests remain under-served. The dearth of truly local content and community service in the media has captured the attention of both the Commission[6] and industry.[7] Newspapers and television stations, working together, are particularly well situated to create locally oriented cable channels and internet-based local media that will fill the need for intensely local content.

But the potential is not limited to the traditional new media categories. Digital television, for example, will create new possibilities for synergies between digital and print media, just as

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Rulemaking (April 28, 1997).

[5] The appetite for local and hyper-local news has grown tremendously over the last several decades. As *the NAA Petition* notes, for example, as the circulation of daily newspapers has remained fairly constant over the last twenty years, the circulation of weekly papers has more than doubled. These weekly papers that tend to cater to neighborhoods within cities or suburbs have increased circulation from 35.9 million in 1975 to 81.6 million in 1996. This increase suggests a large demand for hyper-local news that the electronic media are not satisfying. *NAA Petition* at 24.

[6] For example, Chairman Kennard has listed "competition, *community* and common sense" as the pillars of his regulatory policy and has pledged "to do all that I can to make sure the revolution in technology. . . helps us build better communities." "Kennard Credo – 'Competition, Community, Common Sense'", *Communications Daily*, Apr. 8, 1998 (emphasis added).

[7] For example, Barry Diller, creator of the Fox Network and now Chairman and CEO of USA Networks, is planning to develop up to 10 hours daily of local programming for USA Networks' Miami station as part of a "City Vision" strategy that aims to divert consumers away from network programming to local fare. "Diller's Latest: Local TV Fare in Miami Beach," *Advertising Age,* Apr. 20, 1998.

will the rapid expansion of internet bandwidth. As television service is digitized, true convergence between television and the internet will become increasingly likely. Technologies like Web-TV that combine the functionalities of television and the internet are likely to proliferate. A local newspaper's editorial assets will prove extraordinarily important to a full realization of this sort of convergence. Thus, newspaper owners should not be excluded from participating in this sort of convergence in their local markets; doing so will remove one of the critical components to the fulfillment of digital television's potential. In sum, as a matter of the public interest, the Commission should not prevent those media combinations most likely to create *local* content suitable for the new technologies of convergence.

A rule that prevents common ownership of newspapers and television stations -- alone among competing media -- impedes these developments. Such a rule cannot be justified and should not be maintained in the absence of overwhelming evidence that it is needed to protect against substantial public harm.

II. THE NEWSPAPER/TELEVISION CROSS-OWNERSHIP RULE IS UNNECESSARY

The primary purpose of the newspaper rule was to promote outlet, viewpoint and source diversity; to a lesser extent, the rule was also designed to promote competition among various media outlets.[8] The Notice questions whether the newspaper rule continues to be in the public interest, particularly in light of the Commission's tentative conclusions that cable television now provides competition to locally originated broadcast television. *See* Notice at ¶¶ 6,7,40.

In the twenty-three years that newspaper owners generally have been prohibited from owning television stations in the same market, the media industries have changed dramatically. The numbers of television, radio, cable and other pay television channels have increased exponentially.[9] The power of any one outlet has diminished, as audiences have migrated from broadcast network programming to cable programming[10] and now to internet services. Without question, outlet diversity has increased many times over since 1975. San Francisco in particular

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[8] *See* Multiple Ownership of Standard, FM, and Television Broadcast Stations, Second Report and Order, 50 FCC 2d 1046, 1074 (1975)("Second Report and Order"), *recon.*, 53 FCC 2d 589 (1975), *aff'd sub nom. Federal Communications Commission v. National Citizens Committee for Broadcasting*, 436 U.S. 775 (1978).

[9] *See, e.g.,* the *NAA Petition* at 18, 20-22, reporting, *inter alia,* that (1) the number of radio stations has increased nearly 50% from 1975 to 1997; (2) the number of television stations has increased over 50% in that time; and (3) cable television subscribership has increased from 17% to 67% of American homes. The National Association of Broadcasters is filing with its comments to the Notice today a study that further documents the explosion in media voices. It notes that the average market has 12.4 television stations and the total number of stations has increased 19.7% since 1987. The average market has 84.1 commercial radio stations and the total number of these stations has increased 16.7% since 1987. The average market has 13.6 local newspapers. 23.4 million households are online and that number is expected to grow to 35.2 million in 2000. Mark R. Fratrik, *Media Outlets by Market – Update* (NAB, July 1998).

[10] According to Nielsen Media Research measurements of the last television season, the four networks had a 58% audience share and cable had a 36% share, a drop from 71% and an increase from 22%, respectively, just four years ago. David Bauder, "Cable Ratings Top Networks," *Washington Post,* D-7. In addition, a recent Pew Research Center study found that the number of adults that describe themselves as regular viewers of the broadcast network evening newscasts has fallen from 60% in 1993 to 38%. At the same time, up to 60% of adults now regularly tune in to a national cable network for news. "Cable News Hitting Broadcasters," *Broadcasting and Cable, June 15, 1998, at 55.*

is marked by a large number of broadcast, cable and newspaper outlets.[11] At the same time, the Commission has recognized that elimination or liberalization of media ownership rules, and the resulting industry consolidations, do not harm the public interest and may ultimately increase inter-media competition.[12] Thus, the Commission has in broadcast ownership[13] and merger cases[14] explicitly rejected a rigid fidelity to the principle of separate media and

[11] Today, the San Francisco market (the fifth largest) has 17 television stations and 37 radio stations. *Broadcasting & Cable Yearbook*, 1998, at B-12 and D-60-61. The cable systems in the San Francisco market provide 77-101 channels. http://www.cableco-op.com/channels_all.html; http://www.tci.com/tci.com/lineups/2069.htm. The country's major newspaper companies, including the Hearst Corporation, the New York Times Company, Knight-Ridder, and the Gannett Corporation, all compete with the Chronicle Company for local readers.

[12] For example, for the cable industry, the HHI increased from 866 in 1990 to 1379 in 1997. *See* Matter of Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming, Fourth Annual Report, CS Docket No. 97-141, rel. Jan. 13, 1998 at E-6. The increased concentration of the cable industry since 1990 is evident from the market share of the top four MSOs. In that time, the shares have risen from 45.6 to 62.3%. *See id.* at E-6. Similarly, broadcast station groups are becoming more consolidated. *See*, Sara Brown, "The Big Get Bigger," *Broadcasting & Cable*, April 6, 1998, at 8 (the nation's top 25 television station groups owned or controlled 25% of the commercial television stations in 1996, 33% in 1997, and 36% in 1998).

[13] *See, e.g., In re* Application of Golden West Broadcasters (Assignor) and KABC-AM Radio, Inc (Assignee) for Assignment of License of KMPC(AM), Los Angeles, California, 10 FCC Rcd. 2081, 2083 (1995) ("[I]n both the one-to-a-market rulemaking proceeding and the radio ownership rulemaking proceeding, the Commission expressly determined that combinational efficiencies derived from common ownership of radio and television stations . . . and from common ownership of same service radio stations in local markets were presumptively beneficial and would . . . enhance the quality of viewpoint diversity by enabling such stations to invest additional resources in programming and other service benefits provided to the public."); *In re* Revision of Radio Rules and Policies, Report and Order, 7 FCC Rcd. 2755, 2774, 2776 (1992) ("By artificially denying stations efficiencies that could be realized through consolidation of facilities, managerial and clerical staffs, sales, bookkeeping, promotion, production, news and other aspects of station operation, the local ownership restrictions increase the costs of doing business at a time when cost-savings may well be critical to survival... [C]ost savings stemming from joint operation are likely to be invested in capital improvements and better programming that will inure to the benefit of the listening public.").

[14] *See, e.g., In re* Applications of Stockholders of CBS Inc. and Westinghouse Electric Corporation for Transfer of control of CBS, Inc., 11 FCC Rcd. 3733 (1995); *In re* Applications of Shareholders of Citicasters, Inc. and Jacor Communications, Inc. for Transfer of Control of Citicasters Co., 11 FCC Rcd. 19135 (1996); In *re* Application of Motorola, Inc., Transferor, and American Mobile Satellite Corporation Transferee, for Consent to Transfer of Control of Ardis Company, Memorandum Opinion and Order, 13 FCC Rcd. 5182, 5214-15 (1998); In the Matter of the Merger of MCI Communications Corporation and British Telecommunications plc, 12 FCC Rcd. 15351, 15431 (1997).

telecommunications operations in order to strengthen the competitive and operational capacities of the entities involved.

As much as the world has changed in the last two decades, it will change far more in the next several years as a result of the Telecommunications Act of 1996 (the "Act")[15] and the new combinations the Act will certainly produce. The Act was designed to establish "a pro-competitive, de-regulatory national policy framework" for the U.S. telecommunications industry.[16] In implementing proceedings, the Commission has sought "to unleash the dynamic forces of competition and deregulation in the telecommunications industry to serve the interests of the nation's consumers."[17] In the ownership area, deregulation spurred by Section 202 of the Act included raising the national television audience share cap from 25% to 35% (with further relaxation being considered by the Notice), relaxing the radio multiple ownership rule to allow ownership of up to eight radio stations in a market and an unlimited number of radio stations nationally, relaxing the one-to-a-market rule to permit more television/radio combinations, and removing the broadcast network/cable cross-ownership rule.[18]

In other areas, too, the shift in regulatory philosophy has been profound. Chairman Kennard recently testified before the Senate that the Commission "will encourage competition in the telecommunications industry through pro-competitive, deregulatory rulemakings, that reduce

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[15] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, *codified at* 47 U.S.C. § § *151 et. seq.*

[16] S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess. 1 (1996) (Joint Explanatory Statement).

[17] In the Matter of Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation, FCC 98-101, CC Docket No. 98-77, Notice of Proposed Rulemaking (rel. June 4, 1998).

[18] Section 202 also opened the possibility of eliminating the cable/television cross-ownership rule, a step being considered in this proceeding. For a discussion of the relaxation of various multiple ownership rules, *see NAA Petition* at 38-42.

consumer costs and increase the telecommunications choices available to consumers."[19] The Commission has recently initiated deregulatory initiatives that affect most telecommunications sectors, including common carriers,[20] cablecasters[21] and broadcasters.[22]

It is often suggested that consolidation in the media is not desirable for viewpoint or source diversity. But as Commissioner Powell notes in his separate statement accompanying the Notice, "diversity is a . . . visceral matter -- bathed in difficult subjective judgments and debated in amorphous terms." Some matters are in fact clear, however. For example, as the number of media outlets increases, regardless of the ownership structure, the value of additional and varied

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[19] Testimony of Chairman William Kennard before the U.S. Senate Subcommittee on Commerce, Justice, State, and the Judiciary, Committee on Appropriations, March 19, 1998.

[20] *See, e.g.,* In the Matter of Implementation of the Telecommunications Act of 1996: Telemessaging, Electronic Publishing, and Alarm Monitoring Services, 12 FCC Rcd. 5361, 5364 (1997) (implementing non-accounting requirements of Sections 260 and 274 of the Act); In the Matter of Implementation of Section 402(b)(1)(A) of the Telecommunications Act of 1996, Report and Order, 12 FCC Rcd. 2170, 2172 (1997)(streamlining tariffs filed by local exchange carriers); In the Matter of Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996, 12 FCC Rcd. 1111, 1114 (1997) (implementing Act's exemption of local exchange carriers from certain requirements and proposing to forebear from regulation under Section 214 in some cases); In the Matter of Federal Communications Bar Association's Petition for Forbearance from Section 310(d) of the Communications Act Regarding Non-Substantial Assignments of Wireless Licenses and Transfers of Control, 13 FCC Rcd. 6293, 6306-07 (1998) (granting forbearance for pro-forma assignments); In the Matter of Personal Communications Industry Association's Broadband Personal Communications Services Alliance's Petition for Forbearance for Broadband Personal Communications Services, FCC 98-134, WT Docket No. 98-100, GN Docket No. 94-33, Memorandum Opinion and Order and Notice of Proposed Rulemaking (rel. July 2, 1998) (granting partial forbearance from commercial mobile radio service rules; emphasizing "commitment to forbear from enforcing provisions of our rules that inhibit or distort competition in the marketplace, represent unnecessary regulatory costs, or stand as obstacles to lower prices, greater service options, and higher quality services for American telecommunications consumers").

[21] *See, e.g.,* In the Matter of Implementation of Section 302 of the Telecommunications Act of 1996, 11 FCC Rcd. 14639, 14668 (1996) (eliminating the telephone-cable cross-ownership restriction and eliminating video dialtone rules and policies) *recon.* 11 FCC Rcd. 19081 (1996).

[22] *See, e.g.,* In the Matter of Implementation of Section 207 of the Telecommunications Act of 1996, Restrictions on Over-the-Air Reception Devices Television Broadcast Service and Multichannel Multipoint Distribution Service, 11 FCC Rcd. 19276, 19277-78 (1996) (prohibiting most state and local regulation of devices for over-the-air reception of television broadcast signals, multichannel multipoint distribution service, or direct broadcast satellite services); In the Matter of Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures), 11 FCC Rcd. 6363, 6363 (1996) (replacing comparative renewal procedures requiring a hearing with a two-step renewal procedure).

content soars. A broadcast network or local station with digital channels to program in addition to the analog channels will have incentive and opportunity to broadcast programming of varied formats that come from a variety of sources. It is also clear that there is little empirical evidence to support retention of an antiquated and isolating newspaper restriction in the light of FCC rules that permit substantial consolidation within, between and among multimedia entities. A newspaper owner may own a cable system, a DBS service, a telephone company with a video service component, an online service, or a dozen other media services in combination with each other. That is, a newspaper owner may own all other media except the one medium whose ownership would (as we discuss below) enable it to most effectively expand local service. Whatever the actual impact of media industry consolidation, the continuing prohibition of newspaper and television station combinations amidst the radical shifts in media ownership should be justified by the highest standards of evidence that the newspaper rule is based on verifiable assumptions about a newspaper or television station owner's power to control content.

III. THE NEWSPAPER RULE IMPEDES IMPORTANT PUBLIC BENEFITS, INCLUDING THE CREATION OF LOCAL, MULTIMEDIA SERVICES

The newspaper rule was designed to avert a danger that does not now exist, if it ever did. But the rule is far worse than simply unnecessary. In various ways, it prevents beneficial newspaper and broadcast combinations that could provide the public with more complete and innovative local news coverage and other forms of local content. We will demonstrate that combinations are more likely and able than stand-alone newspapers or television stations to incubate new media ventures, such as an all-news format local cable channel or a comprehensive locally-oriented website. The digitization of all media – the transformation of information to electronic bits – reduces the ability of any single entity or medium to control content production or distribution. As one of the most thoughtful technologists recently wrote of the newspaper rule in this digital age:

> Should it really be unlawful to own a newspaper bit and a television bit in the same place? What if the newspaper bit is an elaboration of the TV bit in a complex, personalized multimedia information system? The consumer stands to benefit from having the bits commingle and the reporting be at various levels of depth and display quality. If current cross-ownership policies remain in existence, isn't the American citizen being deprived of the richest possible information environment? We are shortchanging ourselves grotesquely if we forbid certain bits to commingle with others.
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> -- Nicholas Negroponte, *Being Digital*, at 57

As we now discuss, Professor Negroponte has focused on precisely the correct issue.

A. Common Ownership Creates Synergies in Traditional Media

It is well established that common ownership of media properties creates efficiencies in the respective media. Long before the Act required the liberalization of ownership rules, the Commission recognized those efficiencies in television and radio multiple ownership proceedings. For example, when the Commission repealed the broadcast regional concentration of control provisions, it cited the benefits of multiple ownership. Beyond operating efficiencies, the Commission noted that multiple ownership may result "in the acquisition of better quality programming that has not been previously available in a given market. Furthermore, a multiple owner may . . . also have greater research and development capabilities and thereby increase the potential for technological innovation in the industry."[23]

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[23] In the Matter of Repeal of the "Regional Concentration of Control" Provisions of the Commission's Multiple Ownership Rules, 101 FCC Rcd. 402, 415 (1984)(citations omitted). *See also* In re Revision of Radio Rules, 9 FCC Rcd. 7183, 7190 (1994) (raising number of radio stations single entity can own nationally from 12 to 20 in part because of efficiency benefits to multiple ownership); In re Revision of Radio Rules and Policies, Memorandum Order and Further Notice of Proposed Rulemaking, 7 FCC Rcd. 6387, (1992) (increasing number of radio stations single entity can own in given market in part because of efficiency and public benefit interest benefits); In the Matter of Amendment of Section 73.3555 [formerly Sections 73.35, 73.240 and 73.636] of the Commission's Rules Relating to Multiple Ownership

Even more benefits should be expected to result from the cross-ownership of two different media. For example, in liberalizing the radio/television cross-ownership rule, the Commission recognized that cross-ownership would result in programming and other service benefits as well as cost savings.[24] The Commission noted that cross-owned stations spend a greater percentage of their resources on programming and air more information programming than do other stations.[25] Indeed, even where it has rejected requests for waiver of the newspaper rule, the Commission has recognized that newspaper/broadcast cross-ownership creates value for the public. For example, in rejecting one such request from the Tribune Company, the Commission acknowledged that "certain of the benefits identified by Tribune, such as enhanced news gathering and public service campaigns, appear to be of the type that would exist in virtually all newspaper/broadcast combinations."[26]

A newspaper's strengths tend to lie in its large number of reporters as well as the time and depth that print allows for the coverage and explication of events, for the comprehensive treatment of cultural and entertainment activities, and for all forms of advertising, including local and even hyper-local classified advertising. A television station's strengths lie in the powerful

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of AM, FM and Television Broadcast Stations, 100 FCC 2d 74, 81-82 (1985) (modifying the Commission's rule to allow a single entity to own twelve, rather than seven, television stations nationwide because benefits of group ownership outweighed disadvantages).

[24] In the Matter of Amendment of Section 73.3555 of the Commission's Rules, the Broadcast Multiple Ownership Rules, Second Order and Report, 4 FCC Rcd. 1741 (1988).

[25] *Id.* at 1748. The Commission has recognized benefits of cross-ownership in other areas as well. *See, e.g.,* In the Matter of Amendment of Parts 20 and 24 of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, Amendment of the Commission's Cellular/PCS Cross-Ownership Rule, 11 FCC Rcd. 7824, 7875 (1996) (eliminating the cellular/PCS cross-ownership rule to provide more flexibility in the competitive marketplace and because of competition by new market entrants).

[26] In the Matter of Applications of Stockholders of Renaissance Communications Corporation and Tribune Company for Transfer of Control of Renaissance Communications Corp., 12 FCC Rcd 11866, 11887 (1997). It was because these advantages would be so common that the Commission decided that it would be better to consider them in the context of a rulemaking rather than a particular waiver request.

images of video, the immediacy of television news, and the special connection that television reporters and anchors often have with the audience.[27] By lending reporters to television stations for on-air appearances and by sharing information about news events, a newspaper can add value to television broadcasts even as it maintains entirely separate editorial management. By the same token, by following up on information gained from the newspaper, and by adding video to stories reported in the newspaper, a television station can add value to a newspaper's coverage. Separate editorial and business boards can maintain the necessary independence of each medium to ensure a diverse viewpoint in, and full competition between, the broadcast and newspaper outlets, while shared information and resources can make the coverage of each more compelling for the viewer/reader.

B. Common Ownership Fosters the Creation of New Media

More significantly, nascent forms of communications provide new ways for commonly owned newspapers and television stations to create value. The Commission has long recognized that established media may be instrumental in creating new media. Indeed, newspapers have been credited with helping to incubate the broadcast industry through cross-ownership. The order creating the newspaper rule recognized that, "newspapers brought a pioneering spirit to broadcasting, first in radio and then in television."[28] They also brought financial resources and an incentive to grow a cognate industry. In prohibiting additional newspaper/broadcast combinations, the Commission did not cast doubt on the historic role of such combinations, but rather noted that "the broadcast medium has matured ... [so that] the special reason for

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[27] *See Declaration of John Sias, Chief Executive Officer and Chairman of the Chronicle Company ("Sias Declaration"),* attached as Exhibit A-1, ¶¶ 5-7; *Declaration of Mathew Wilson, Executive Editor of The Chronicle ("Wilson Declaration"),* attached as Exhibit A-2, ¶¶ 6,9; *Declaration of Daniel Rosenheim, ("Rosenheim Declaration"),* attached as Exhibit A-3, ¶ 5.

[28] *Second Report and Order,* 50 FCC.2d at 1074 (1975).

encouraging newspaper ownership ... [of broadcast stations] is no longer generally operative in the way that it once was."[29]

Although broadcast stations no longer need the assistance of newspapers to commence service, there are new media that would benefit from (and indeed might require) the participation of *both* local newspapers and television stations if they are to fulfill their potential. Comprehensive local websites as sources of original news and information, as well as 24-hour local cable news channels, are examples of new media with enormous potential. In our judgment, however, neither will be built from scratch in any community. The editorial and financial resources needed, the inherent economic and technological risk each presents, and the competitive challenges each faces create extremely high barriers to entry, growth and success. The Chronicle Company is only just beginning to realize the potential of these new local media. Our new ventures, a local news and information cable channel and a comprehensive local website, are fledgling enterprises; they are losing money even as they are becoming very popular. But we are prepared to take the risks involved because of the capacity these new media have to improve our core products, extend our brands and better serve our viewers and readers. Few companies will be willing to lose money for as long as it will take before these new local media ventures are profitable or even reach the break even point. That is why we urge the Commission to encourage investment specifically by removing impediments to sensible media combinations.

Jointly owned newspapers and television stations are well placed to contribute their particular expertise to new media – particularly those, like online services, that will increasingly exhibit the qualities of both television and newspaper media. A news-based internet website has

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[29] *Id.* at 1075.

a great need for the resources of both a newspaper company and a television broadcaster. This is because the internet is inherently a hybrid medium – one that has the capacity to provide more text and detail than a broadcaster, more video-based content than a newspaper, and a new format that comprehensively integrates both text and video. A newspaper that merely puts its text on a website is not offering customers a product that uses the full power of the internet. *See Wilson Declaration,* ¶ 11. Similarly, a broadcaster that simply puts copies of its newscasts online, in either text or video form, is not fully exploiting the medium. With respect to cable, a local news cable channel is not merely a local broadcast television news service that charges a fee. Most such channels do not break even, in part because they must provide more in-depth news and a greater variety of news than does a broadcast station that devotes a much smaller percentage of the broadcast day to news. If such a news channel has access to newspaper as well as broadcast news resources, we submit that it stands a much better chance of survival.

Although a newspaper or television station alone might obtain the content necessary to create a comprehensive local website, neither is likely to have the managerial will or resources to venture aggressively into these businesses. By the same token, a joint venture between a newspaper and a television station will usually not be as successful in exploiting the resources of both media and in focusing staff efforts toward a common goal as will a jointly owned enterprise. *See* Section V below.[30] In sum, the newspaper rule is an obstacle to more, and more creative, joint efforts by television stations and newspapers to forge truly new local media.

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[30] S*ee also An Economic Analysis of the Efficiency Benefits From Newspaper-Broadcast Station Cross-Ownership, by Stanley M. Besen and Daniel P. O'Brien, Charles River Associates Inc. ("Besen/O'Brien Report")*, attached as Exhibit B, at 21-24.

IV. THE CHRONICLE COMPANY PROVIDES A CASE STUDY OF THE PUBLIC BENEFITS THAT CAN FLOW FROM COMMON OWNERSHIP OF A NEWSPAPER AND TELEVISION STATION IN THE SAME MARKET.

The Chronicle Company's experience in using its San Francisco newspaper and television station assets to enhance its ability to serve the Bay Area illustrates some of what the public may well miss as a result of the newspaper rule. The Notice requests information on how common ownership of a newspaper and television station in the same market can enhance the quality of both the newspaper and the television station. The Chronicle Company's experience in serving the San Francisco Bay Area shows more. Not only has common ownership brought greater depth to the news and public affairs coverage of the Chronicle and KRON, but its participation in both the local newspaper and television businesses has given the Chronicle Company an incentive to develop new media ventures. In fact, the Chronicle Company has invested about 10% of its operating cash flow to begin to realize the potential of online services and niche cable channels to change the way localities receive and distribute information. The Chronicle Company has created two new ventures in the last four years. The Gate, started in 1995, is a website that integrates the content of the Chronicle and KRON, provides a forum for community exchange with respect to Chronicle and KRON content, and assists the Chronicle and KRON in thinking about online content when stories are reported. BayTV, started in 1994, is the Chronicle Company's 24-hour local news and information cable channel.[31]

The Gate is managed entirely independently of either the Chronicle or KRON. It has a staff of 35 and an operating budget of well over $3 million. Despite the fact that the Gate receives more than 2 million "hits" a day, reaches a population of about 270,000 on a regular basis, and is the most visited local news and information website in the Bay Area, it will lose

[31] BayTV is 49% owned by TCI's Liberty Media and 51% owned by the Chronicle Company. It is operated by the Chronicle Company.

well over $2 million this year and is likely to lose money for some time to come. For this reason, the Gate is subsidized to a significant degree by the Chronicle Company. It is also subsidized by KRON and the Chronicle to the extent that it receives editorial content and staff assistance from those other outlets.[32] The Gate could not long survive, much less grow, if the Chronicle Company did not subsidize it with accounting, space and utilities in addition to certain content.

On the other hand, the Gate has its own editorial and sales staffs, and its managers report directly to the Chronicle Company. *See Declaration of John Coate ("Coate Declaration"), Director of the Gate,* attached as Exhibit A-4, ¶¶ 6,8. This independence allows it to approach local events from its own perspective, even as it works with the other Chronicle Company outlets on documentation, production, editing and presentation.

Like the Gate, BayTV is managed separately from the Chronicle Company's other media outlets and has its own separate financial accounting and reporting structures. BayTV employs about 131 people, of whom 36 also work for KRON. Also like the Gate, BayTV receives administrative support and content contributions from the Chronicle Company's other outlets (particularly from KRON) that subsidize its operations. BayTV is the only cable channel of its kind in the Bay Area and has gained significant audience share since it began. Notwithstanding its popularity and reputation in the community, BayTV is losing money. It has an operating budget of more than $10 million and a cash flow deficit of well over $3 million; KRON subsidizes this deficit. *See Declaration of Janette Gitler, BayTV Director of News and Programming ("Gitler Declaration")*, attached as Exhibit A-5, ¶¶ 4,8-9.

The Gate and BayTV both cooperate with the Chronicle and KRON in sharing and developing content. Coordination among all four outlets is enhanced by monthly meetings which

[32] The contributions of KRON that are in the form of administrative and physical support are allocated as direct expenses to the Gate.

bring all the division heads together to promote innovative projects. In addition, the Gate's news director attends daily KRON and Chronicle news meetings in order to gain a better sense of what the Bay Area will be viewing or reading in the next 24 hours. The Gate's participation in those meetings, in turn, helps the KRON and Chronicle reporters to consider how the Gate's interactive component will complement their stories. The content that is ultimately produced on each of the outlets may be entirely different in terms of viewpoint, but the cooperation among the outlets creates cross-overs that enrich the viewpoint of each. *See Coate Declaration*, ¶¶ 6,9-10,12.

BayTV also employs its own newsgathering staff of six. At the same time, it makes use of KRON news segments in longer-form BayTV talk programs as well as certain KRON personnel to host, appear on, or direct some BayTV programming. In this way, BayTV is able to use KRON's resources without ceding control of its own content. For example, out of an hour-long BayTV news program, it is typical for about 10% of the content to come from KRON or possibly from the Chronicle in the form of on-air commentary. The contribution of the other Chronicle Company outlets supplements BayTV's editorial product. But the 90% of the content that BayTV itself creates provides the viewer with an entirely different perspective.

The following provides examples of how KRON and the Chronicle have worked together to improve the news coverage of each outlet and how their cooperation led to the creation and support of new local media.

A. KRON and the Chronicle

The Chronicle, with a daily readership of about 1.2 million, is the most widely read newspaper in the Bay Area. It has won hundreds of awards for excellence in journalism, including four Pulitzer Prizes. KRON is the highest-rated San Francisco station according to

Nielsen ratings and consistently has one of the area's two highest rated local newscasts. The *Columbia Journalism Review* has said of KRON that "[i]n any discussion of television news eminence, [it is one of] a handful of stations [that] invariably crops up."[33] KRON has won virtually every local and national award presented to television stations and news organizations. In addition to the news, KRON produces a number of local programs for both children and adults. KRON has a 20-year history of producing and airing children's programming designed to fit the needs of the local community, rather than simply clearing the network children's schedule. KRON's locally-produced children's magazine program, *First Cut,* was recently honored with the NAB Service to Children Television Award as well as the Iris Award from the National Association of Television Program Executives.

KRON and the Chronicle (as well as BayTV and the Gate) have always been operated as separate entities with separate editorial policies, staffs, and revenue sources. *See Wilson Declaration*, ¶ 5; *Rosenheim Declaration*, ¶ 4. In the last several years, Chronicle and KRON have begun to collaborate more on joint projects as a result of the Chronicle Company's belief that more communication between the two would enhance the service of each without eroding the independence of the two outlets. *See Sias Declaration*, ¶¶ 4, 8-11, 15.

This sort of cooperation between the newspaper and the station is creating three types of benefits for readers and viewers. First are the benefits of shared content in both outlets. For example, KRON, which has a meteorologist on staff and expends many more resources on local and hyper-local weather forecasts (for a community in which weather patterns are highly localized), provides forecast material to the Chronicle. This type of content is not viewpoint sensitive and its sharing does nothing to reduce the diversity of information in the Bay Area.

[33] *Columbia Journalism Review*, January/February 1994, at 21.

Rather, such sharing allows the Chronicle Company to spread its weather reporting costs and to make localized weather reports more widely available. KRON and the Chronicle also share a database of community events from which each outlet is able to provide more than the usual amount of information on local happenings.

Second are the benefits that arise from joint decisions to follow a single topic in both outlets. An example of this type of cooperation is the series that the Chronicle and KRON have each undertaken in response to President Clinton's suggestion that the nation engage in a year-long dialog on race.[34] The result is a series entitled *About Race*. The Chronicle has published news stories, editorials, Op-Ed pieces and letters addressing racial issues of concern to Bay Area residents. *See Wilson Declaration* at ¶ 5; *Rosenheim Declaration* at ¶ 7. KRON has run a five-part series, including lengthy pieces of around 10 minutes in the 6 PM news, on racial issues. *See Rosenheim Declaration*, ¶ 7. The Chronicle and KRON series are edited and produced by different staffs with different approaches. There is no coordination of viewpoint. However, the fact that both outlets embarked on the series at the same time meant that far more attention was paid to the topic in a concerted way than would have been possible if only one outlet had addressed racial issues or if the two outlets had addressed them at different times. KRON was able to attach images to stories that the Chronicle covered, and the Chronicle could follow up in greater depth stories that appeared on KRON. KRON and the Chronicle have done similar series on the transportation crisis in the Bay Area and on the problem of hypodermic needle exchanges. They have also both participated in the *Voice of the Voter*, which is committed to innovative and in-depth election coverage. *See Rosenheim Declaration,* ¶¶ 6,7; *Wilson*

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[34] Exec. Order No. 13050, 62 Fed. Reg. 32987 (1997).

Declaration, ¶ 5. As discussed below, BayTV and the Gate have also aired or posted original content to these series.

Third, KRON is able to use Chronicle reporters both in the Chronicle newsroom and in KRON's studio. Six Chronicle columnists appear regularly on KRON and about 10% of the Chronicle's reporting staff appear irregularly on KRON newscasts.[35] *See Rosenheim Declaration*, ¶ 9; *Wilson Declaration,* ¶ 6. In most cases, the issues a columnist addresses are different in the paper and on-air. There is simply not enough print space or air-time, for example, for a food columnist to opine on more than a few restaurants per week or for an environmental reporter to report on more than one aspect of a certain story. That the columnist and the reporter may have a second outlet increases the amount of material that can be developed and used. Although Chronicle staff are free to appear on any television station, the fact is that the Chronicle Company's emphasis on developing synergies among its properties has created a demand at KRON. And management's support for these synergies at the Chronicle has allowed staff to supply their expertise.

B. The Gate

San Francisco, with a personal computer penetration level of about 53%, is in effect a laboratory for local online services. It is perhaps not surprising that the Chronicle Company is exploring how the internet can add an interactive and highly localized component to its newspaper and television news coverage and how online services can effectively exploit the dual print/video possibilities of the internet. Three years ago, KRON and the Chronicle operated separate websites named KRON Online and the SFGate. Each was typical of the websites

[35] These appearances are pursuant to separately negotiated talent contracts. For example, Phil Matier, a leading investigative columnist on the Chronicle who writes as part of the Matier & Ross team regularly reports for KRON.

commonly sponsored by television stations and newspapers. KRON Online featured program listings and additional information about KRON broadcasts. The SFGate featured newspaper stories in electronic form. *See Sias Declaration*, ¶14. In 1997, the Chronicle Company decided to combine the two websites to create an entirely different online experience under the name of SFGate or the Gate (http://www.sfgate.com). *See id.; Coate Declaration,* ¶¶ 7-10. The Gate is still in its infancy in terms of exploiting the internet's capabilities and will develop rapidly as the technology of the internet improves. But already, the Gate has become the Bay Area's most popular locally-oriented website[36] and is one of the most visited sites of any kind in the Bay Area.

The Gate maintains web pages for each of the Chronicle Company's San Francisco properties (BayTV and the publishing company Chronicle Books, in addition to KRON and the Chronicle). But the Gate adds new value by integrating KRON, Chronicle and BayTV content and embarking on joint community news stories with the other outlets. Because part of its mission is to create new content, the Gate also creates and commissions content exclusively for itself. *See Coate Declaration,* ¶ 6.

The Gate's staff is independent of KRON and the Chronicle, but works directly with the editorial staffs of the other outlets in order to integrate the television and newspaper content into the Gate's interactive presentation. In daily news department meetings at both the Chronicle and KRON, the Gate is able to ascertain what material it ought to obtain and how that material might be made more useful to the public online. In addition, at these news meetings, the Gate begins to fashion its role in joint projects. For example, with respect to the *About Race* series launched by

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[36] *See* Study by MediaMetrix, 1st Quarter 1998, attached to Coate Declaration at Exhibit A-5. There are at least five other local news and information websites, including PIX Page, SF Sidewalk, Bay Insider, City Search 7, and Mercury Center.

KRON, the Chronicle and BayTV, the Gate held online discussions for viewers and readers to express their opinions. The stories from KRON, the Chronicle and BayTV are all archived on the Gate, as are community responses. *See Coate Declaration*, ¶ 10. Increasingly, reporters from the Gate may cover an event that KRON, Chronicle and BayTV reporters are also covering. This overlapping coverage allows the Gate to take a distinct editorial approach even as it knits together the television, newspaper and cable coverage. It also allows the Gate to tailor questions and other material designed to elicit interaction.

The Gate's integration of KRON, Chronicle and BayTV material has also made it a source of emergency information during public safety crises. For example, in the event of an earthquake or a flood, the Gate begins loading public safety information for immediate access, drawing on the Chronicle, KRON and BayTV as information sources. This sort of presence in the community makes the Gate "the" informational website for the Bay Area.

C. BayTV

Cable local news channels, unlike the internet, are not basically "new technology." But like websites, they are risky and largely unprofitable efforts to bring local content to new outlets. The Chronicle Company launched a 24-hour cable local news channel, BayTV, because it concluded that there was a void in the market for community news. BayTV is the only such news channel in the Bay Area and now is carried on virtually all the local cable systems, reaching more than 1.3 million homes. In Marin County, where because of technology limitation, BayTV has not been carried until recently, a poll conducted by the Marin County *Independent Journal* found that BayTV was the number one requested cable channel among residents. *See Gitler Declaration*, ¶ 5.